

**Federal Defenders
OF NEW YORK, INC.**

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April 8, 2021

BY ECF AND EMAIL

The Honorable Vincent L. Briccetti
United States District Judge
Southern District of New York
300 Quarropas Street
White Plains, New York, 10021

**Re: United States v. Gustavo Vila
20 Cr. 0495 (VB)**

Dear Judge Briccetti:

Mr. Vila is currently scheduled for sentencing on Monday, April 19, 2021 at 10:00 a.m. This letter is submitted on his behalf and respectfully requests that this Court sentence Mr., Vila to 36 months of incarceration, three years of supervised release and whatever special conditions this Court deems appropriate. We further respectfully request that he be permitted to surrender to the facility designated by the BOP.

BACKGROUND

Mr. Vila was arrested on September 3, 2020, on a Complaint charging a violation of Title 18 U.S.C. Sec. 641, theft of government funds. The gravamen of the crime was his theft of a client's benefits under the September 11th, Victim Compensation Fund, (VCF.) Mr. Vila was an attorney and hired to file a VCF claim for a client in 2012. Unfortunately, when the check from the government arrived, he did not send all of the funds to his client. Upon his arrest he immediately acknowledged his wrong doing and the government was informed of his desire to plead guilty. On September 18, 2020, a Felony Information was filed and he was

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arraigned on the Information and waived Indictment. On October 29, 2020, he pleaded guilty before this Court. The plea was entered pursuant to a Plea Agreement dated October 22, 2020. The Agreement contemplates a USSG adjusted offense level of 21, and a CHC of II resulting in a sentencing range of 41-51 months. While the Agreement has a restitution amount of \$ 922,559.84, this number should be reduced by \$54,689.08, which Mr. Vila gave the victim by check dated October 29, 2020, resulting in an outstanding restitution amount of \$867,870.76. It should be noted that in the Presentence Report, (PSR) the victim notes that he received \$400,000.00 from the NY Lawyers Fund as partial compensation. It is unclear whether, the restitution Order should repay this money to the Fund. We have received and reviewed the PSR and Mr. Vila has no objection to the facts or Guideline calculations contained therein, but does object to the sentencing recommendation as greater than necessary under Title 18 USC 3553 factors.

PERSONAL HISTORY

Mr. Vila will be turning 63 in a few short months. He is a divorced father, a retired police officer and a former attorney. Although he spent his youth manly in Puerto Rico his father was in the military and they were also transferred to a number of states and even resided in Guam. Unfortunately, while he was in Guam the base was attacked, needless to say this was a traumatic event for a child. Upon his return to Puerto Rico the family had a reunion. At this family gathering his cousin went into bathroom and shot himself. It also seems that his father was very strict and often verbally abusive. The family moved to New York a few years after his father retired from the military in 1976, and shortly thereafter his parents separated. Mr. Vila has had no contact with his father since 1982.

In 1980 he married his first wife, Donna Cottone and the couple had two children, Daniel and Michael. Mr. Vila became a police officer for New York City and rose through the ranks from a patrolman to Lieutenant, Executive Officer, Commanding Officer, and Special Counsel to the Police Commissioner. On

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September 11, he was an eyewitness to the tragedy of the towers exploding. He was a first responder, and as with many first responders, the impact of that day and the days and months that followed still haunt him. He was there clearing the debris and identifying fallen firefighters. Needless to say, these images will remain with him forever. His service in the NYC Police Department and his heroic efforts during those tragic days are a mitigating circumstance that this Court should consider. Ms. Denise Thomas was in the NYPD and Mr. Vila was her boss. In a letter to the Court she states that they have known each other for 25 years. "Gustavo has always been a fair and decent person towards me and others for as long as I have known him. He also been there for me and others. There was a situation with myself that I was being discriminated against because of my sex and race and he went to his boss and made sure I was treated fairly". EXHIBIT A.

Clearly, there are a great many good qualities in Mr. Vila and he should not be judged on the past few years where he has spun out of control. Another colleague from the NYPD, Ms. Marie Robinson, writes a compelling letter which not only attests to his character and her professional relationship with him, but also of the difficulties he had with his former partner, and how it led to the unraveling of his life. EXHIBIT B.

Although his son Michael, no longer wants a relationship with his father, a result of the instant charges, he is a New York City Detective. Clearly, the fact that his father was a member of the New York City Police Department must have influenced his decision to join the force. In 1996 he divorced Donna, but has maintained a strong relationship with his daughter Danielle. Danielle has submitted a heartfelt letter that speaks of a loving and caring father who is her "best friend." In reading this beautiful letter it is difficult to reconcile that man and the man who has committed the instant offense. The list of community events that Mr. Vila participated in, from coaching an inner city basketball team, to helping feed the homeless are truly

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impressive. To quote the letter would be to reproduce it in its' entirety. Respectfully, this letter speaks to the person that he is, not the poor decisions he has made, nor the misdeed of the fast few years. EXHIBIT C.

Mr. Vila attended Fordham Law School Law school at night while he was in the NYPD and graduated in 1996. Unfortunately, this legal career also became his downfall. From 2000 through 2009 he was an attorney with Kuczinski, Vila, & Associates. This is where the trouble began and unfortunately, his life unraveled. They owned a condominium which was their office, the firm filed for bankruptcy, there were lawsuits, a bankruptcy filing and serious debts to be paid. The property was put into receivership and has yet been sold. It seems this is where all of the trouble started. From 2009-2016 he was a solo practitioner. However the lawsuits with his old partner and various Judgements buried him in a financial avalanche from which he has never recovered. There was client money in an escrow account. Mr. Vila was charged with, and admitted to using the client funds. As a result he was eventually disbarred in 2016. Prior to his disbarment the victim, whom he had known personally, came to him to file a VCF claim. Although his client was awarded more than one million dollars, Mr. Vila sent him only 10%. He was permitted to retain a 10% fee, but due to his catastrophic financial debt he retained 90% of the money.

There is no question of the harm to the victim, nor can there be any dispute as to the tragedy of the entire situation. That Mr. Vila pleaded guilty less than two months after his arrest is proof of his contrition. He is deeply remorseful, ashamed and embarrassed. His second wife, with whom he was married for twenty years, divorced him as a result of this crime, his son, an officer in the NYPD refuses to speak to him. He has lost his wife, his son, his home and will spend the remainder of his life repaying the restitution. He is well aware that he will spend the next few years in jail.

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Mr. Vila's letter to the Court details his downward spiral and explains to the Court how his life unraveled. For so many years he worked hard, achieved much and was well respected. There were hardships, and traumas. He does suffer from PTSD and has been with Dr. Kessler, whom we hope will be filing a full evaluation. The stress, the trauma and the hardships in no way excuse his behavior. Indeed, there seems to be a disconnect between the first 50 years of his life and the downward trajectory of the last twelve years. What is certain, is that he is deeply remorseful, and fully intends to repay his debt to the victim. EXHIBIT D.

CONCLUSION

There is no question that the compound crimes of his past misdeeds have changed the course of his life forever. He is resolved, upon his release to repay the victim. Clearly, his future is uncertain and his ability to earn a living and secure employment will be difficult at best. For the above stated reasons we respectfully suggest that a sentence of 36 months would satisfy the sentencing rule of leniency and would be sufficient without being greater than necessary to satisfy the 3553 factors. Additionally, we request that mental health counseling be made a special condition of his supervised release, and finally request that he be allowed to surrender to the facility designated by the BOP.

Respectfully submitted,

/s/

Susanne Brody

cc: Sarah L. Kushner, A.U.S.A.
Nichole Brown-Morin, U.S.P.O.